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**PHYSICAL THERAPY BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

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In the Matter of the Accusation against:	)	No. 1D 2000 62675
	)	
	)	OAH No. L-2002030633
YVETTE MC PHEETERS	)	
P. O. Box 3524	)	
Van Nuys, CA 91407,	)	
	)	
Physical Therapist Assistant License No.	)	
AT 2380,	)	
	)	
Respondent.	)	
	)	
	)	

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**DECISION**

This case was tried before a quorum of the Board of Physical Therapy, consisting of President Donald Chu, Vice President Jerry Kaufman, and members Ellen Wilson, Jay Segal, and Louis Garcia and convened on May 10, 2002 at 9801 Airport Boulevard, Los Angeles, California 90045.

The proceedings were had pursuant to an order of the Board granting respondent's petition for reconsideration, and vacating and setting aside a prior default decision by the Board. Such order also provided that an Administrative Law Judge of the Office of Administrative Hearings should preside over the formal public hearing to be had pursuant to notice, attend upon the Board during its post-hearing deliberations, and prepare a formal, written decision in accordance with the directions of the Board made after its deliberations. Administrative Law Judge Paul M. Hogan acted in that capacity.

Complainant, Steven K. Hartzell, Executive Officer of the Board, was present and was represented by John E. Decure, Deputy Attorney General. Respondent appeared personally without counsel.

At the outset, the parties advised the Board that they were in agreement as to several of the factual issues pending, and had reached a formal partial stipulation memorializing such agreement. Upon completion of a voir dire examination, it was determined that respondent had freely and voluntarily entered upon such agreement, and as to the matters agreed upon

had knowingly and intelligently waived the hearing and review rights accorded her by the California Administrative Procedure Act. The stipulation is complainant's Exhibit 8 in evidence.

As to remaining matters raised by the Accusation, the parties presented oral and documentary evidence, and submitted the matter to the Board for its decision.<sup>1</sup> The Board makes its Findings of Fact, Conclusions of Law, and Decision as follows:

### **Findings of Fact**

1. Complainant, Steven K. Hartzell, caused the Accusation to be filed in this matter while acting solely in his official capacity as Executive Officer of the above-entitled Board.

2. On or about December 17, 1990, the Board issued the license described in the caption above to Yvette McPheeters, respondent herein. The license remained in full force and effect until it expired on August 31, 2000, and was then renewed on September 30, 2000. It remains in effect and has a current expiration date of August 31, 2002.

3. The parties have otherwise timely filed and served on one another all pleadings, notices and other papers as required by law.

4. Respondent subjected her license to discipline by altering the expiration date on her expired license card so that it falsely appeared to be in full force and effect when it in fact was expired. She used this card to obtain employment as a physical therapy assistant and worked for one day during the time her license was expired.

5. Respondent's license lapsed because she did not have the money to pay the renewal fee at the time it became due. This was so, because, at the time, work was slow and her income was sparse.

6. Respondent was highly embarrassed and demonstrated obvious remorse at her hearing. She has no criminal, civil or administrative record, and has functioned as a physical therapist assistant for eleven years without discipline. She was able to renew her license a month late by getting a loan from her mother, which she really did not want to do because of the embarrassment that act entailed. She desires to obtain further education and training and to become a physical therapist specializing in geriatric rehabilitation.

7. The Board has incurred reasonable costs of investigation and prosecution in the sum of \$3,700.00.

### **Conclusions of Law**

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<sup>1</sup> Although present during the Board's executive session to take direction from the Board as to the formulation of its formal decision, the Administrative Law Judge took no part in the Board's deliberations.

1. Respondent is subject to disciplinary action under section 2660(l) of the Business and Professions Code in that she committed a fraudulent, dishonest, or corrupt act by altering her license, presenting an altered license to an employer, and practicing physical therapy and holding herself out as a physical therapist assistant without a valid license by reason of the facts set forth in Finding 4 above.

2. Additional or alternate bases of discipline set forth in paragraphs 7, 11 and 13 of the Accusation are redundant and add nothing to the Board's powers to impose discipline in this matter.

3. The Board has incurred reasonable costs of investigation and prosecution in the sum of \$3,700.00 and is entitled to recover such costs from respondent pursuant to section 2661.5 of the Business and Professions Code.

4. The Board has fully considered all aspects of this matter, including respondent's showing in mitigation and extenuation, and makes the following dispositional order accordingly.

### **Order**

The Physical Therapy Assistant license heretofore issued to respondent is hereby revoked, provided however, that the order of revocation is stayed for a period of three years commencing thirty days from the effective date hereof, and respondent is placed on probation for a like period upon the following terms and conditions:

1. Commencing upon the first day of the second month of her probationary period, respondent shall pay the sum of \$100.00 to the Board, and shall continue to make a like and equal payment upon the first day of each and every month thereafter, until she has paid to the Board the sum of \$3,000.<sup>2</sup> Failure to make any of the payments so ordered may constitute a violation of the probation order and constitute grounds to vacate probation and reimpose the order of revocation.

2. Respondent shall obey all federal, state and local laws and regulations governing the practice of physical therapy in California.

3. Respondent shall comply with all court orders. She may be found to have violated the terms of her probation if found to be in contempt of court.

4. Respondent shall comply with all terms and conditions of any criminal probation, and shall comply with any restitution ordered in connection therewith.

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<sup>2</sup> The Board waives costs incurred in excess of \$3,000.00.

5. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether she has complied with all her conditions of Board probation.

6. Respondent shall comply with the Board's probation monitoring program.

7. Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice.

8. The respondent shall notify all present or future employers of the reason for and the terms and conditions of her probation by providing a copy of this Decision to the employer. The respondent shall obtain written confirmation from the employer that this Decision was received. If the respondent changes, or obtains additional employment, the respondent shall provide the above notification to the employer and submit written employer confirmation to the Board within ten (10) days. The notification shall include the name, address and phone number of the employer, and, if different, the name, address and phone number of the work location.

9. The respondent shall notify the Board, in writing, of any and all changes of name or address within ten days.

10. Respondent may only perform physical therapy in a supervised, structured environment, under the supervision of a licensed physical therapist who is responsible for the care rendered.

11. Respondent shall not provide physical therapy services in a patient's home.

12. The respondent is prohibited from working a graveyard shift or any shift in which there is not a physical therapist practicing.

13. Respondent may not use aliases and shall be prohibited from using any name not her own legally-recognized name, or based upon a legal change of name.

14. Within 90 days of the effective date of this decision, respondent shall take and pass the Board's written examination on the laws and regulations governing the practice of physical therapy in California. If respondent fails to pass the examination, respondent shall be suspended from the practice of physical therapy until a repeat examination has been successfully passed.

15. If the respondent works less than 192 hours in a period of three months, those months shall not be counted toward satisfaction of the probationary period. The respondent shall notify the Board if she works less than 192 hours in a three-month period.

16. The period of probation shall run only during the time respondent is practicing within the jurisdiction of California. If, during probation, respondent does not practice

within the jurisdiction of California, respondent is required to notify the probation monitor immediately and in writing that the respondent's practice is out-of-state, and the date of return, if known. Practice by respondent prior to notification to the Board of the respondent's return will not be credited toward completion of probation. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled.

17. If, during the term of this probation, respondent ceases to perform as a physical therapist assistant due to retirement, health or other reasons, respondent may request to surrender her license to the Board. The Board reserves its right to evaluate respondent's request, and to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, the terms and conditions of probation shall be tolled either until such time as the license is no longer renewable, or the respondent makes application for its renewal, or applies for a new license, or applies for issuance of a license to practice as a physical therapist.

18. It is not contrary to the public interest for the respondent to perform as a physical therapist assistant under the probationary terms set forth above.

19. If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

20. Upon successful completion of probation, respondent's license shall be fully restored.

July 3, 2002, and effective upon the 2<sup>nd</sup> day of August, 2002.

#### **PHYSICAL THERAPY BOARD OF CALIFORNIA**

by: Donald Chu  
President/ Vice President



